



## WATER RIGHTS, STATE FUNDS REDUCTION CONCEPTS

NATURAL RESOURCES, AGRICULTURE, & ENVIRONMENTAL QUALITY APPROPRIATIONS SUBCOMMITTEE  
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### ISSUE BRIEF

We have been asked to provide a list of suggestions that could potentially reduce the appropriations from the General Fund to agencies overseen by the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee. This list was intended to be used as a starting point for committee's discussions and potential legislative actions.

We used the assumption that although the agencies overseen by this appropriations subcommittee are generally very efficient, there are additional ways to reduce the state appropriations, while allowing the public to receive the needed services. For example, in some instances a portion of the state funds can be replaced with other funding sources, such as user fees. Also, some of the functions currently performed exclusively by state entities can be done by private companies or other government entities if the statute would allow and if proper oversight be put in place.

We identified the following general categories where such potential state fund reductions could be made. For additional explanations and examples of these categories, please see Appendix A.

1. **User fees:** replace a portion of the General Fund appropriations with user fees.
2. **Increase self-checking and self-reporting:** require a greater portion of the inspections and testing currently done by state employees to be transferred to the regulated industry/public, who may be required to self-report or to hire a third-party for verifications.
3. **Allow competition:** allow private or other government organizations to compete against each other and the state for services currently provided solely by state agencies.
4. **Outsource services:** contract with private or other government entities to take over the services currently provided by state agency.
5. **Eliminate government intervention:** some services can be provided through delegated standards without a formal structure of state government directly involved. This puts the burden on the industry to provide the services while still allowing the state to set the standards.

The tables below list the programs of the Division of Water Rights and show the funding mix, expenditure categories, and staff and vehicles count by program.

In the first table, which shows the FY 2019 amounts by funding source (as included in the [Base Budget Bill, H.B. 5](#)), we have assigned in the first column (titled "Possible Action") one or more of above categories to the programs where applicable.

**FY 2019 Base Budget by Program and Funding Mix**

Line	Possible Action		Programs by Line Item	State Funds	Federal Funds	Dedicated Credits
1			<b>Water Rights</b>			
2	User fees	More Self-Checking/Reporting	Adjudication	1,254,900		2,005,900
3	User fees		Administration	743,300		
4	User fees	More Self-Checking/Reporting	Applications and Records	2,753,300		1,808,300
5		Outsource Services	Canal Safety	139,600		
6	User fees	More Self-Checking/Reporting	Dam Safety	719,700	118,300	224,900
7	User fees		Field Services	1,144,600		136,800
8	User fees	Outsource Services	Technical Services	2,045,700		

Most of the base budget appropriations for the Division of Water Rights comes from state funds (General Fund and Sales Tax, labeled as Dedicated Credits). The Legislature may consider the possibilities of offsetting some of the state funds with user fees, which may require increasing some of the current fees and possibly implementing new fees.

The Legislature may also explore the possibilities of allowing the division to require more of the responsibilities currently done by staff to be transferred to the applicants, who may have to self-report and/or hire qualified professionals for verifications. This could potentially reduce the workload of the division and the costs to the taxpayers.

In some instances, it may be possible to have qualified private or other government organizations provide some of the services currently offered by division staff only. This could subsequently lead to a reduction in the appropriations of state funds.

***Would the committee like to pursue any of these possibilities and direct staff to get more information?***

The following pages contain details about the expenditures, FTE and Vehicles counts by program, as well as descriptions for each program, in order to provide a better understanding of what is currently budgeted to be "purchased" with the appropriations for FY 2019 in the Base Budget Bill.

**Expenditures**

Line	Programs in Line Item	Personnel Services	In-state Travel	Out-of-state Travel	Current Expense	DP Current Expense	Pass Thru
1	<b>Water Rights</b>						
2	Adjudication	2,380,000	15,000	0	843,800	22,000	
3	Administration	627,700	3,300	3,000	300,000	9,300	
4	Applications and Records	4,127,000	13,600	3,300	508,700	59,000	
5	Canal Safety	39,000	900		1,000	500	98,200
6	Dam Safety	994,200	9,500	5,000	37,600	13,600	3,000
7	Field Services	1,233,200	4,200	1,000	31,000	12,000	
8	Technical Services	954,100	2,000	2,400	23,600	359,000	854,600

**Staff and Vehicles**

Line		FTE	Vehicles
1	<b>Water Rights</b>		
2	Adjudication	11	
3	Administration	5	
4	Applications and Records	42	8
5	Canal Safety	2	
6	Dam Safety	9	
7	Field Services	10	2
8	Technical Services	6	

**Mission:** To provide order and certainty in the beneficial use of Utah's water.

**Programs Descriptions****Water Rights****Adjudication**

An adjudication of water rights is an action in a district court to determine the water rights on the source or in the area involved in the action. The State Engineer has the statutory responsibility to prepare a proposed determination of water rights, which serves as the basis for the court's decree. As part of this effort, a thorough search is made of the division's records and the county recorder and clerk offices to identify water rights in the area. Hydrographic surveys and field investigations are completed to verify sources of water, points of diversion, and nature of water use, and any surrendered water rights. An evaluation is made of the water right based on the current use of water or the use of water within the recent past (seven years). This programs works with the Attorney General's Office, and the division pays the salary for two attorneys who deal with just adjudication matters.

**Administration**

The State Engineer is the director of the Division of Water Rights and is responsible for management of all activities within the division. The State Engineer acts in a quasi-judicial capacity. Any decision of the State Engineer may be challenged in court. Included among the responsibilities of this section are setting policy, budget and accounting, personnel issues, public information, and overall office management.

**Applications and Records**

The Applications and Records program's major responsibility is to ensure the viability of the water appropriation process. The program allocates and regulates surface and ground water throughout the state. Unappropriated water may be allocated, and existing water rights may be transferred. The section processes all applications, which includes receipt, advertising, protests, hearings, and approval or rejection of the applications. This program also processes proof of beneficial use and issues the certificates of beneficial use. All water rights files are public record and are maintained on file and are accessible on the division's web site. For the convenience of its customers and to reduce travel costs, the division operates seven regional offices in six locations. Two of them (Utah Lake and Weber River areas) are housed in Salt Lake City. Outlying offices, with approximately five employees each, are located in Logan, Price, Richfield, Vernal, and Cedar City. Each regional office offers the same services available to customers as the Salt Lake City main office. They also perform field work, accomplish application processing tasks, conduct water right hearings, and develop relationships with local government leaders and water user communities in their assigned geographical area.

**Canal Safety**

UCA 73-5-7 requires the division to develop by July 1, 2019 an inventory and maintain a list of all open, human-made water conveyance systems that carry five cubic feet per second or more in Utah.

**Dam Safety**

The Dam Safety program addresses the safety of dams by regulating their construction, repair and long-term maintenance. Plans and specifications are approved, and some 350-400 high-and-moderate-hazard dams are inspected

regularly. This section, in cooperation with the Corps of Engineers, also handles stream channel alteration and gold dredging permits.

### Field Services

The Field Services section covers the following major functions: Distribution and Well Drilling.

*Distribution:* In conjunction with the local water users, the division operates about 45 water distribution systems in the state. Water Commissioners are selected for each system, and are responsible to regulate the diversions and record the quantity of water used. These systems are created and organized, either through a court order or by the State Engineer. Distribution systems are funded through assessments to water users. Part of this funding is used to pay the division to handle the accounts payable, payroll, and other accounting functions for the systems.

*Well Drilling:* The division licenses about 150 well drillers and 150 registered operators each year and oversees their work activities.

### Technical Services

The Technical Services program provides technical support for division operations by collecting and analyzing data, studying issues, and implementing new technologies in agency operations. The program conducts water resource studies for both surface and ground water sources to adequately define the extent and character of the resource and its use, leading to the development of management policies and plans. It also coordinates the division's databases and computer operations. Program staff also strives to cooperate with the United States Geologic Survey (USGS), the Utah Geologic Survey (UGS), and other federal, state and local partners to conduct studies and collect data consistent with UCA 73-2-15 and 17.

### Appendix A

1. **User fees:** replace a portion or all the General Fund appropriations with user fees. This will allow the state entity to continue the same level of services and staffing, while reducing the general tax dollars. It may or may not mean increasing fees to generate more revenue with which to replace the General Fund. An example of this is the Division of Parks and Recreation shifting the majority of its finding from the General Fund to parks visitors' fees.
2. **Increase self-checking and self-reporting:** require a greater portion of the inspections and testing currently done by state employees to be transferred to the regulated industry/public, who may be required to self-report or to hire a third-party for verifications. This would potentially reduce the workload of the state agency, which would result in reduction in state staff and travel expenses. This could be similar to reporting and paying income taxes. The individual or corporation self-reports, with the understanding that reports are enforced through audits. Another example of this is the elimination of the state-mandated vehicle safety inspections for vehicle registration.
3. **Allow competition:** allow private or other government organizations to compete against each other and the state for services currently provided solely by state agencies. Competition could breed innovation and increase the quality of services and/or reduce the costs to the industry/public paying for the services. An example of this is the Organic certification process.
4. **Outsource services:** contract with private or other government entities for the services currently provided by state agency. Initially, the costs may remain the same, but it could be reduced over time, as competition to provide the services increases. Many services in state government are provided through contracting, and perhaps more could be. Examples of this is UDOT and road construction and This Is The Place Foundation managing the heritage park.
5. **Eliminate government intervention:** some services can be provided through delegated standards without being a formal structure of state government. This puts the burden on the industry to provide the services while still allowing the state to set the standards. An example of this is industry certifications and industry standards, such as the Certified Public Accountant (CPA) and the Governmental Accounting Standards Board (GASB).